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CUSTOMER NO. 23990

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : David Allan Collins
Serial No. : 10/038,872
Filed : December 31, 2001
For : DISTRIBUTED IDENTITY SERVER FOR USE IN A
TELECOMMUNICATION SWITCH
Group No. : 2618
Examiner : Angelica Perez

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal. The review is requested for the reason(s) stated in the arguments below, demonstrating the clear legal and factual deficiency of the rejections of some or all claims.

Claims 27-31 were rejected as anticipated by U.S. Patent No. 6,671,259 to *He, et al.* (hereafter, simply “He”). The Examiner has failed to show that the cited reference identically shows every element of the claimed invention in a single reference, arranged as they are in the claims, as required under MPEP § 2131 to establish anticipation. Instead, the Examiner has asserted that elements of He, arranged differently than in Claims 27-31, anticipate the claimed invention.

Furthermore, while the Office Action mailed December 1, 2005, applies He to Claims 27-31, the Office Action mailed June 16, 2006, finally rejects Claims 27-31, but applies He to cancelled Claims 1-5, while addressing some of the arguments made by the Appellant in traversing the non-final rejection of Claims 27-31.

For the convenience of the panel, claim 27 is reproduced below:

27. A controller for allocating call identity values to call connections associated with a switch, said switch capable of handling call connections between calling devices and called devices on a plurality of trunk lines associated with said switch, said controller comprising:

 N call application nodes capable of executing a plurality of identity server processes that allocate call identity values to said call connections; and

 a load sharing group, selecting one of a first and second identity server processes to allocate a call identity value to a new call connection according to a load distribution algorithm,

 wherein said first identity server process comprises a first primary-backup identity server group, comprising,

 a first primary identity server application, executing on a first call application node, and

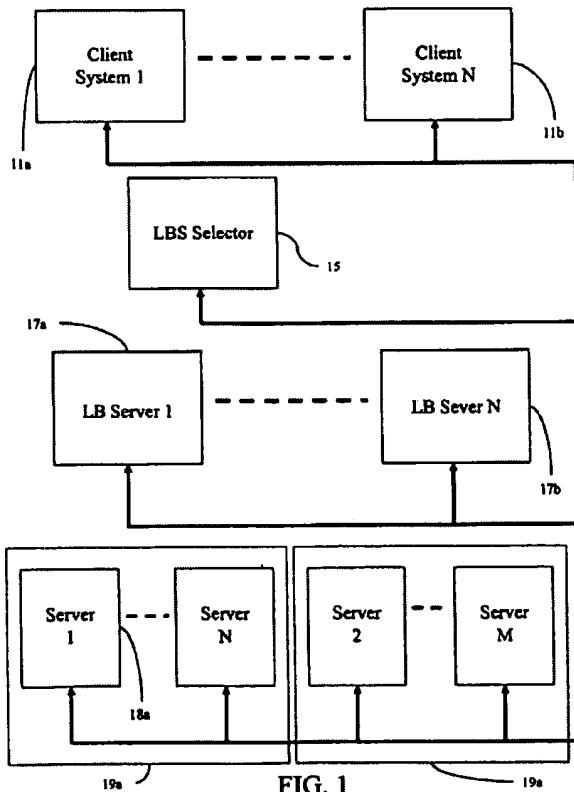
 a first backup identity server application, associated with said first primary identity server application,

 and wherein, responsive to a failure of the first primary identity server application, the first backup identity server application assumes the role of first primary identity server application.

That is, the claim recites a controller for allocating call identity values. The controller includes N call application nodes and a load sharing group. The call application nodes are capable of executing

identity server processes. When a call identity value is to be allocated, a load sharing group in the controller selects an identity server process to allocate the call identity value. The identity server process includes a primary identity server application and a backup identity server application. If the primary identity server application fails, the backup identity server application assumes its role.

In contrast, He describes a system that uses servers to satisfy client requests, load balancing servers to select a server for a request, and a load balancing server selector to direct a request to a load balancing server. Figure 1 of He illustrates a block diagram of one embodiment of such a system:



The Examiner asserts that the servers 18a of He describe the claimed call application nodes capable of executing a plurality of identity server applications [processes]. The Examiner argues that

unspecified procedures executing on first and second servers 18a describe the first and backup identity server applications [processes]. Because He describes a load balancing server dynamically changing a client from one server to another, the Examiner finds that He thereby teaches that the first and backup identity server applications [processes] form a load sharing group server application [load sharing group].

Having asserted that the servers 18a at the bottom of the He hierarchy describe the load sharing group at the top of the hierarchy of elements in Claim 27, the Examiner then looks to the top of the He hierarchy to find elements at the bottom of the claim hierarchy.

The claim recites that the first identity server process comprises a first primary-backup identity server group, the group comprising primary and backup identity server applications. Having argued that a procedure executing on a server 18a of He teaches a first identity server application [process], the Examiner asserts that He's statement that a one load balancing server selector can act as a backup to another load balancing server selector describes a first identity server application that comprises a first primary-backup group server application [identity server group].

The Examiner further asserts that He's description of a first load balancing server selector becoming inoperable and being replaced by a second load balancing server selector somehow describes a first primary identity server application executing on a first call application node. The Appellant submits that nowhere does He describe a load balancing server selector executing on one of the servers 18a.

As such, the Examiner has not shown that the He reference describes identically shows every element of the claimed invention in a single reference, arranged as they are in the claims, as required

to establish anticipation of Claims 27-31. Furthermore, the Examiner has failed to suggest a suggestion or motivation to rearrange the elements of the *He* reference to form the elements of Claims 27-31 or Claims 32-50, or to argue why a person of skill in the art would have had a reasonable expectation of success in such a rearrangement.

Therefore, Claims 27-50 distinguish over all art of record. All claims should be allowed, and the Applicant should not be put to the time and expense of an appeal.

CONCLUSION

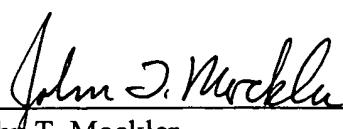
As a result of the foregoing, the Applicant asserts that the claims in the Application are in condition for allowance over all art of record, and respectfully requests this case be returned to the Examiner for allowance or, alternatively, further examination.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK BUTRUS P.C.

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